IN THE HIGH COURT OF JDICATURE OF ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

THURSDAY THE EIGHTH DAY OF JULY TWO THOUSAND AND FOUR

PRESENT:

THE HONLE MR**. DEVINDER GUPTA, CHIEF JUSTICE**

AND

THE HON'BLE MS. **JUSTICE G. ROHINI**

W.P.No.1094 of 2004

Between:

1. Kanna Lakshmi Narayana

S/o Rangaiah, Member of Legislative Assembly

Pedakurapadu Assembly Constituency,

Guntur District, Andhra Pradesh.

2. K.R. Amos, S/o K. Rehoboam,

General Secretary of A.P. Congress Committee,

Gandhi Bhavan, Hyderabad. … PETITIONERS.

AND

1. Central Bureau of Investigation, represented

by its Director, Lodhi Road, New Delhi.

2. Hon'ble Shri Nara Chandra Babu Naidu,

S/o (Late) Shri Kharjura Naidu, Chief Minister

Of Andhra Pradesh, R/o Plot No.1310,

Road No.65, Jubilee Hills, HYDERABAD-33.

3. Government of India, represented by its

Cabinet Secretary, New Delhi.

4. The Secretary, Andhra Pradesh Legislative

Assembly, Hyderabad.

5. The Commissioner for Income tax,

Andhra Pradesh, Hyderabad.

6. Central Vigilance Commission of India,

represented by its Secretary, New Delhi. … RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus directing the Government of India, the 3rd Respondent herein and the Central Bureau of Investigation, New Delhi, the 1st Respondent herein, under the supervision of the Central Vigilance Commission of India, the 6th Respondent herein to investigate into the charges of personal corruption punishable under Sections 7 and 111 of Prevention of Corruption Act, 1988, made in this petition against the Andhra Pradesh Chief Minister Sri N. Chandrababu Naidu after declaring, if necessary, that Section 19 of the prevention of Corruption Act, 1988, as unconstitutional and further direct the Respondent Authorities to take all consequential proceedings including prosecuting the Chief Minister based on the investigation of official respondents within a time frame fixed by this Honourable Court.

Counsel for the petitioners: Sri S. Ramachandra Rao, Senior Advocate

for K.R. Prabhakar.

Counsel for Respondent No.1: Sri C. Sadasiva Reddy, SC for CBI.

Counsel for Respondent No.2:

Counsel for Respondent No.3: Mr. T. Suryakaran Reddy, SC for Central and 6 Government.

Counsel for Respondent No.4: Government Pleader for Law & Legislative Affairs.

Counsel for Respondent No.5: Mr. J.V. Prasad, Standing Counsel.

W.P.M.P.No.1419 of 2004

Between:

1. Kanna Lakshmi Narayana.
2. K.R. Amos. …. Petitioners/Petitioners.

And

1. Central Bureau of Investigation, represented by its Director, Lodhi Road, New Delhi.

2. Hon'ble Shri Nara Chandra Babu Naidu, S/o (Late) Shri Kharjura Naidu, Chief Minister Of Andhra Pradesh, R/o Plot No.1310, Road No.65, Jubilee Hills, HYDERABAD-33.

3. Government of India, represented by its Cabinet Secretary, New Delhi.

4. The Secretary, Andhra Pradesh Legislative

Assembly, Hyderabad.

5. The Commissioner for Income tax,

Andhra Pradesh, Hyderabad.

6. Central Vigilance Commission of India,

represented by its Secretary, New Delhi. … Respondents/

Respondents.

Petition under Section 151 of the Code of Civil Procedure praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to direct the 4th respondent to produce the declarations of properties filed by Sri N. Chandrababu Naidu, the Honourable Chief Minister of Andhra Pradesh, as published in various Telugu and English Newspapers (ie. Andhra Jyothi, Andhra Prabha, Vaartha, Eenadu, Deccan Chronicle, the Hindu, The New Indian Express, Ness Time etc.,) on 1.4.1999 and also in March 2003 within two weeks pending disposal of the Writ Petition.

W.P.M.P.No.1420 of 2004

Between:

1. Kanna Lakshmi Narayana.

2. K.R. Amos. …. Petitioners/Petitioners.

And

1. Central Bureau of Investigation, represented

by its Director, Lodhi Road, New Delhi.

2. Hon'ble Shri Nara Chandra Babu Naidu,

S/o (Late) Shri Kharjura Naidu, Chief Minister

Of Andhra Pradesh, R/o Plot No.1310,

Road No.65, Jubilee Hills, HYDERABAD-33.

3. Government of India, represented by its

Cabinet Secretary, New Delhi.

4. The Secretary, Andhra Pradesh Legislative

Assembly, Hyderabad.

5. The Commissioner for Income tax,

Andhra Pradesh, Hyderabad.

6. Central Vigilance Commission of India,

represented by its Secretary, New Delhi. … Respondents/

Respondents.

Petition under Section 151 of the Code of Civil Procedure praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to direct the 5th respondent to inquire, investigate and submit a status report regarding the charges of financial improprieties and acquisitions b y the Chief Minister narrated in the petition to the Hon'ble Court within six weeks pending disposal of the Writ petition.

W.P.M.P.No.1421 of 2004

Between:

1. Kanna Lakshmi Narayana.

2. K.R. Amos. …. Petitioners/Petitioners.

And

1. Central Bureau of Investigation, represented

by its Director, Lodhi Road, New Delhi.

2. Hon'ble Shri Nara Chandra Babu Naidu,

S/o (Late) Shri Kharjura Naidu, Chief Minister

Of Andhra Pradesh, R/o Plot No.1310,

Road No.65, Jubilee Hills, HYDERABAD-33.

3. Government of India, represented by its

Cabinet Secretary, New Delhi.

4. The Secretary, Andhra Pradesh Legislative

Assembly, Hyderabad.

5. The Commissioner for Income tax,

Andhra Pradesh, Hyderabad.

6. Central Vigilance Commission of India,

represented by its Secretary, New Delhi. … Respondents/

Respondents.

Petition under Section 151 of the Code of Civil Procedure praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to direct the 3rd respondent to place before this Court the action taken on the representation made to the Honourable governor on 5.6.1999 pending disposal of the Writ petition.

W.P.M.P.No.2222 of 2004

-

Between:

-

1. Kanna Lakshmi Narayana.

2. K.R. Amos. …. Petitioners/Petitioners.

And

1. Central Bureau of Investigation, represented

by its Director, Lodhi Road, New Delhi.

2. Hon'ble Shri Nara Chandra Babu Naidu,

S/o (Late) Shri Kharjura Naidu, Chief Minister

Of Andhra Pradesh, R/o Plot No.1310,

Road No.65, Jubilee Hills, HYDERABAD-33.

3. Government of India, represented by its

Cabinet Secretary, New Delhi.

4. The Secretary, Andhra Pradesh Legislative

Assembly, Hyderabad.

5. The Commissioner for Income tax,

Andhra Pradesh, Hyderabad.

6. Central Vigilance Commission of India,

represented by its Secretary, New Delhi. … Respondents/

Respondents.

Petition under Section 151 of the Code of Civil Procedure praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to direct the 2nd respondent to explain his present financial position in comparison to what he stated in a counter-affidavit filed before this Court in W.P.No.7606 of 1988 pending disposal of the Writ petition.

W.P.M.P.No.1419 of 2004

Between:

1. Kanna Lakshmi Narayana.

2. K.R. Amos. …. Petitioners/Petitioners.

And

1. Central Bureau of Investigation, represented

by its Director, Lodhi Road, New Delhi.

2. Hon'ble Shri Nara Chandra Babu Naidu,

S/o (Late) Shri Kharjura Naidu, Chief Minister

Of Andhra Pradesh, R/o Plot No.1310,

Road No.65, Jubilee Hills, HYDERABAD-33.

3. Government of India, represented by its

Cabinet Secretary, New Delhi.

4. The Secretary, Andhra Pradesh Legislative

Assembly, Hyderabad.

5. The Commissioner for Income tax,

Andhra Pradesh, Hyderabad.

6. Central Vigilance Commission of India,

represented by its Secretary, New Delhi. … Respondents/

Respondents.

Petition under Section 151 of the Code of Civil Procedure praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to direct the 2nd respondent to produce a copy of the statement by way of an affidavit filed by him before the Kuppam Assembly Constituency Returning Officer on 5.4.2004 reflecting his assets pending disposal of the Writ Petition.

Counsel for the petitioners: Sri S. Ramachandra Rao, Senior Advocate

in all the W.P.M.Ps. for K.R. Prabhakar.

Counsel for Respondent No.2:

In WPMP.Nos.1422 and

9899 of 2004.

Counsel for Respondent No.3: Mr. T. Suryakaran Reddy, SC for Central

In WPMP.No.1421 of 2004 Government.

Counsel for Respondent No.4: Government Pleader for Law & Legislative

In WPMP.NO.1419 of 2004. Affairs.

Counsel for Respondent No.5: Mr. J.V. Prasad, Standing Counsel.

In WPMP.No.1420 of 2004.

The Court at the admission stage delivered the following Judgment:

-

THE HON’BLE THE CHIEF JUSTICE SHRI DEVINEDER GUPTA

AND

THE HON'BLE MS. JUSTICE G. ROHINI

WRIT PETITION NO. 1094 OF 2004

JUDGMENT: (Per the **HON'BLE THE CHIEF JUSTICE SHRI DEVINDER GUPTA)**

***

On 19.1.2004, this petition was filed under Article 226 of the Constitution of India as PIL after a similar petition (W.P.Crl.Nos.272-273 of 2003) filed by the petitioners before the Supreme Court under Article 32 of the Constitution of India was dismissed as withdrawn on 8.1.2004 since the petitioners expressed their wish to approach this Court. At the outset, it may be mentioned that incorrect statement was made before us on behalf of the petitioners that the petitioners had been directed by the Supreme Court to file the petition in this Court. It is not so recorded in the order of Supreme Court.

The petitioners are seeking a writ of mandamus to declare the action of the respondent-authorities in not conducting any investigation against Respondent No.2, who, as on that date, was the Chief Minister of the State, on various allegations of corruption and abuse of his official position as Chief Minister of the State, as arbitrary and illegal and consequently to direct Government of India-3rd respondent and the Central Bureau of Investigation, New Delhi – 1st respondent, under the supervision of the Central Vigilance Commission of India, to investigate into the alleged allegations of personal corruption and abuse of official position which, according to the petitioners, constitute criminal misconduct under section 13(1)(e) of Prevention of Corruption Act, 1988 (for short 'the Act") punishable under Sections 7 and 11 of the said Act, if necessary, by declaring Section 19 of the Act to be unconstitutional and further directing the respondents to take all consequential proceedings including prosecution against Respondent No.2 within a time frame to be fixed by this Court

Petitioner No.1 on the date of filing of the petition was an Ex. M.L.A. of Peddakurapadu Assembly Constituency, Guntur District and now is a Minister in the Government in power. 2nd petitioner is General Secretary of Andhra Pradesh Congress Committee. Both the petitioners are members of Indian National Congress Party and are claiming to be working for the welfare of the people of Andhra Pradesh and claim that they are aggrieved personally and in public interest and, as such, are filing the petition against the alleged personal corruption, abuse of power and criminal misconduct of the 2nd respondent. The petitioners state that the A.P. Lokayukta and Upa-Lokayukta Act, 1983, is not made applicable to the Chief Minister though it was made applicable to the Ministers. The Anti Corruption Bureau, which is under the control of the State, is not taking action against the corrupt activities of the Chief Minister. No action has also been taken on the representation submitted to the Hon'ble Governor of the State. The Central Government, which is dependant on the support of the Chief Minister, is also not taking any action. The petitioners, therefore, claim that they have a public duty to bring to the notice of the Court of the alleged corruption of the 2nd respondent for appropriate orders or directions since the Public and Constitutional Authorities have failed to discharge their duties. Thus, they claim that they have locus to file the present petition, having no other effective alternative remedy open to them.

The petitioners in their petition have made reference that on an earlier occasion also similar petition being W.P.(SR).No.74226 of 1999 **(Dr. Y.S. RAJASEKHARA REDDY AND OTHERS v . HIS EXCELLENCY, THE GOVERNOR OF A.P., HYDERABAD AND OTHERS)** was filed in this Court, which was dismissed on 2.11.1999 on technical ground that the petitioners had in that petition prayed to implead the Governor of the State as one of the parties to the petition. The Court held that it was not permissible in view of bar created under Article 361 of the Constitution of India. While dismissing the said writ petition, the Court specifically made it clear that it is not adjudicating upon or going into the merits of the allegations levelled in the said petition on the basis of which probe was sought. Aggrieved by the said decision of this Court, the petitioners allege that a Special Leave Petition was preferred before the Supreme Court wherein the Supreme Court granted leave to appeal and the appeal (Civil Appeal No.1817 of 2000) is now pending in the Supreme Court for consideration.

The petitioners have stated that the earlier writ petition (W.P.SR.No.74226 of

1997) was filed before this Court by the then Leader of Opposition after a representation had been submitted by the said petitioners to the Governor of the State as early as on 5th June, 1999 and also to the Central Bureau of Investigation. Since the representations yielded no result, therefore, the writ petition was filed. This attempt on the part of the petitioner, who at that time was leader of the opposition in the Assembly and who is alleged to have submitted various documents in proof of alleged allegations, ended up with the question whether the Governor can be sued or not for failure to discharge his duties as a statutory authority for issuing directions to prosecute the Chief Minister since this Court held that Article 361 is a bar to sue Governor for his inaction under Section 19 of the Prevention of Corruption Act. This reason the petitioners have assigned now approaching this Court for issuing directions as have been sought for since, according to them, the view which was expressed by this Court in Judgment dated 2.11.1999 needs reconsideration. We may express our view on the reason assigned by the petitioners now approaching this Court on almost identical cause of action when earlier similar petition (W.P(SR).No.74226 of 1999) was dismissed, that this Writ Petition will not be maintainable in this Court on that ground, more particularly, when C.A.No.1817 of 2000 is stated to be pending in Supreme Court. The petitioners could have continued to prosecute their writ petition in Supreme Court, but, for reasons best known to them, they got it dismissed.

In any case, we heard at length learned counsel for the petitioners on the question of admission of the petition. The petitioners have filed a lengthy affidavit making several allegations of corruption and alleged abuse of official position by the 2nd respondent and have filed documents as an attempt to persuade this Court to issue the directions as prayed for. We may briefly summarise the allegations made against the 2nd respondent as under.

It is alleged that 500 acres of valuable land of the State situated at Madhapur, Serilingampally Mandal, R.R District were given to L & T Company at a throw away price for personal gain of the 2nd respondent who established his own farm adjacent to the said lands. Several contracts worth more than Rs.1400.00 cores were granted to L & T irregularly without calling for global tenders and L & T in turn got constructed buildings viz., NTR Trust Building, building at Punjagutta bearing H.No.6-3-541/0 and another building which is part of Sri Venkateswara Co-operative

Housing Society free of cost for the benefit of the 2nd respondent. Another extent of 76 acres of land out of the total extent 158 acres of land belonging to Andhra Pradesh Industrial Infrastructure Corporation (APIIC) was also given to L & T, which has resulted in loss to the Government to the tune of Rs.125.00 crores. L & T was also given land for construction of Hi-tech city at Visakhapatnam at Rs.2,000/- per sq. ft though the basic value of the land declared by the Government was Rs.4,000/- per sq. ft. and the market value is Rs.11,000/- per sq. ft.

It is further alleged that the 2nd respondent is in possession of assets, which are grossly disproportionate to his known sources of income. In the affidavit filed in W.P.No.7606 of 1988 on 30.6.1988, Respondent No.2 stated that he has only an annual agricultural income of Rs.36,000/- per year as on 31.3.1987. On 10.10.1994, he declared before the Registrar of Companies through a prospectus of a Company Heritage Foods (Indla) Ltd., of which he was the Managing Director at the relevant time, that he was not in any manner associated with any industry or business activity and that there are no other companies or ventures promoted by him and he had no business or occupation or practised any profession and his income was only from meagre agricultural income and remuneration as a Legislator only during the period from 1989 to 1994. Subsequently on 1.4.1999, the 2nd respondent filed a statement of declaration before the Speaker of the Legislative Assembly that his assets are worth about Rs.19,29,25,093/-. The petitioners allege that the 2nd respondent was only a legislator from 1989 to 1994 and worked as Minister for few months after 1995 before becoming Chief Minister. The petitioners, therefore, alleged that the above declarations made by the 2nd respondent at various stages before the concerned authorities would establish that he has amassed assets admittedly worth more than Rs.19.00 crores as on 1.4.1999 though he declared at the earliest point of time on 30.6.1988 that he was having only agriculture income of Rs.36,000/-. The assets are thus disproportionate to his known sources of income. In the absence of proper explanation, this circumstance would constitute an offence of criminal misconduct on the part of the 2nd respondent, therefore, he is liable to be prosecuted since at the relevant time he was a public servant as defined under section 13(1)(e) of the Act.

The petitioners have elaborated further about the alleged criminal misconduct of the 2nd respondent placing reliance on the statement of declaration stated to have been made by the 2nd respondent in regard to the assets possessed by him, his wife

and his son before the Speaker of the Legislative Assembly on 1.4.1999. It is alleged that the wife of the 2nd respondent has acquired various properties in her name, which are directly attributable to the corrupt activities of the 2nd respondent who devised a method by creating certain fronts like Heritage Foods, NTR Memorial Trust etc. The investment of shares in Heritage Foods (India) Ltd. and other companies in his name and in the name of his wife and son which comes to more than Rs.3.00 crores, as detailed in the statement of declaration made before the Speaker of the Legislative Assembly, is inexplicable. His wife was only a housewife and his son was a minor during the relevant period. The 2nd respondent had no other business till 1994 other than Heritage Foods. In any event, the savings could not be more than Rs.10.00 lakhs. It is alleged that the 2nd respondent and his family members have also made a declaration before the Speaker on 31.3.2003 for the year 2003 and the same be called for by the Court for reference. It is further alleged, even without reference to the latest disclosure, there is unexplained gap between his known sources of income and admitted assets, which, prima facie, constitutes criminal misconduct.

In Part-B of the affidavit, the petitioners have furnished details about the alleged personal corruption of the second respondent alleging that the wife of 2nd respondent Smt. Bhuvaneswari has acquired property worth of Rs.10.00 crores. She owns a house at Punjagutta bearing H.No.6-3-541/0 worth more than Rs.5 crores before 1995 for which she applied relaxation of all Rules and Zonal Regulations to the Hyderabad Municipal Corporation. On 20.5.1997, the Chief Minister's Office as per the directions of the 2nd respondent issued directions to the MCH to send the application of the wife of the 2nd respondent to the Government for relaxation of the regulations. Accordingly, the MCH forwarded her application. On 17.6.1997, the Government in the Municipal Administration Department issued orders relaxing all the zonal regulations in favour of the wife of the 2nd respondent, though thousands of buildings were demolished in the city for violation of zonal regulations. This, according to the petitioners, was done in abuse of the official power and position of the 2nd respondent. It is further alleged that in fact the building was got constructed by Nagarjuna Constructions Ltd., free of cost as the said Company was granted one of the eight Power Projects. Smt. Bhuvaneswari was a house wife till 1994 and,

therefore, she could not have acquired the said property.

It is further alleged that 2nd respondent owned a building in Plot No.2A, Road No.12, Banjara Hills, Hyderabad which was part of Sri Venkateswara Cooperative Housing Society of the value between Rs.3 to 5 crores. He acquired the building in abuse of power and corrupt means and possession of this building alone is sufficient to attract the provisions of the Act.

Another allegation made by the petitioners is that the wife of the 2nd respondent has acquired properties worth more than Rs.10.00 crores by registered sale deeds for the advantage of her own family and these were acquired in abuse of the official power of the 2nd respondent as Chief Minister. As many as seven sale deeds were executed on 19.4.1995 in favour of the wife of the 2nd respondent for purchase of lands of six acres located in Madhapur village, Serilingamaplli Mandal. Though these lands are hit by Urban land (Ceiling & Regulation) Act, 1976, they were registered as agricultural lands exempting from the operation of the Act by reason of G.O.Ms.No.733/1988. The properties are now worth between Rs.15 to 20 crores. All these properties in the name of the wife of the 2nd respondent and his relatives were acquired when the 2nd respondent was the Revenue Minister and Chief Minister and during the relevant period she was only a housewife. The 2nd respondent having plans to create a Hi-tech City in Madhapur area, himself and other family members started acquiring properties in violation of the rules. The sale consideration for purchase of these properties was not from the known sources of assets or income of the 2nd respondent and his family members but was obtained through corrupt methods and means. The petitioners, therefore, urge a deeper probe in the matter.

The next allegation of the petitioners is that the 2nd respondent has appropriated Government land worth Rs.18.00 crores in his own favour as a life long Managing Trustee of a fake Trust ie NTR Trust. Mr. Sitaramaiah, Director of Heritage Foods is one of the Trustees. Mr. Srinivas Rao is another Trustee. The 2nd respondent created NTR Trust with a corpus fund of Rs.10,000/- on 15.2.1997 with the object of charitable purpose of giving scholarships to students and to provide funds and food and education for deserving students, medical aid to poor, aid to the victims of national calamities etc. The Trust is located in T.S.No.1/1/1A/1, Block-B,

Ward-1- in Road No.2, Banjara Hills, Hyderabad in an extent of 3,981 sq. mts. Initially, it was a part of Plot No.93 of Jubilee Hills Municipality, which was subsequently merged into Municipal Corporation of Hyderabad. The Hyderabad District Collector on 22.1.1987 handed over an extent of Ac. 6.03 guntas of land situated in Plot Nos.93, 94 and 95 of Jubilee Hills Municipality to the HUDA. The entire area was converted for the purpose of residential plots and an extent of 3981 sq. mts. was set apart by the MCH for constructing a Commercial Complex for the Jubilee Hills area. The Government vide G.O.Ms.No.323 dated 29.6.1996 granted sanction for construction of the Commercial Complex by HUDA. 2nd respondent in the capacity as Managing Trustee of the Trust applied to the Government on 7.4.1997 for allotment of land. Contrary to the earlier orders issued in G.O.Ms.No.323 dated 29.6.1996 granting permission to the HUDA for construction of a commercial complex in the land, Government issued orders in G.O.Ms.No.474 dated 4.6.1997 leasing the land in favour of the Trust for thirty years relaxing the ban orders issued in G.O.Ms.No.634 (Revenue) dated 2.7.1990 and G.O.Ms.No.840 (Revenue) dated 14.10.1996, converting the land use from residential to commercial. More than Rs.10.00 crores was incurred for construction of the buildings in the land and the petitioners allege that this construction was done by L & T Company free of cost for undue favour shown to them in awarding various contracts. The petitioners allege that the 2nd respondent violated all principles of political ethics, ignored statutory prohibitions by abusing his power and grabbed the valuable property for his personal gain.

It is further alleged that one Mr. Shyam Raj Moorjani was detained under Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 by proceedings of the Assistant Director, Directorate of Revenue Intelligence (Customs and Excise) dated 20.5.1995. Orders were issued prohibiting alienation of his properties. 2nd respondent helped Mr. Moorjani by abusing his office and in violation of the prohibitory orders purchased the properties of the smuggler situated opposite to Begumpet Airport through his proxy Sri S.N. Daga, who is the Director of Heritage Foods (India) Ltd.

It is next alleged that the 2nd respondent invested Rs.76 lakhs as Managing Director of the Heritage Company till December, 1994 when he became Revenue Minister. As per the known sources of income of the 2nd respondent, the income was

only from agricultural dry land and his remuneration as Managing Director of Heritage Foods from 1.7.1994 till 12.12.1994 at the rate of Rs.20,000/- per month. His wife invested more than Rs.147.69 lakhs in her personal name though her known source of income is from Ac.13.56 cts of dry land. Similarly, his son Master Lokesh has invested Rs.62.56 lakhs in the companies while his known source of income is from Ac.10.40 cts of agricultural lands.

It is further alleged that a farm house was owned by the 2nd respondent adjacent to Hi-tech City. This property to an extent of Ac.3.276 cts. was purchased benami in the name of Rama Agricultural Farms represented by one Sri P. Dasiah Naidu by registered sale deed dated 17.7.1989 for Rs.1,00,000/-. Subsequently Sri Dasaiah Naidu retired from partnership firm and on 27.7.2000 an extent of ac.1.50 cts of land was sold to Dr. Anji Reddy, Chairman and Managing Director of Reddy Labs for Rs.1,47,90,000/- by his son, wife and mother Smt. Ammanemma. Another extent of Ac.1.64 cts was sold on the same day for Rs.1,61,69,200/- by his wife, mother and son to Reddy Labs and cheques were issued in favour of Rama Agricultural Farm which is the creation of the 2nd respondent. According to the petitioners, this is a bogus transaction. Dr. Anji Reddy has received several benefits and advantages from the Government. The land is over valued and the amount of Rs.3.00 cores is nothing but bribe money paid by Reddy Labs and the same was utilised in the transactions treating it as accounted money for the purpose of taxation.

Another allegation made is that the mother of 2nd respondent purchased five acres of land in S.No.51, Madinaguda, Serlingampally on 11.12.2000 for Rs.35.00 lakhs. This property was purchased immediately after the earlier transaction was made on 27.7.2000 wherein certain extent of land was sold to Reddy Labs. Thereafter, she executed a deed dated 24.12.2001 gifting away the said property to the son of 2nd respondent. All these transactions were manipulated by an ingenious method of circulating bribe money received as corruption by the 2nd respondent. According to the petitioners, the collective value of the properties owned by 2nd respondent and his family members worth more than Rs.132 crores.

On the above allegations, the petitioners have sought for the directions as indicated earlier further alleging that earlier writ petition W.P.(SR).No.7426 of 1999 was filed before the Court when no action had been taken on the representation-dated 5.6.1999 submitted to the Governor, State and Central Governments and the

Central Bureau of Investigation. This writ petition was dismissed by this Court on 2.11.1999. Thereafter no other representation was submitted. As such, necessity arose for the petitioners to file the present petition.

The earlier writ petition of which reference has been made by the petitioners was filed by Dr. Y.S. Rajasekhara Reddy and others belonging to the Congress Party. Incidentally, it may be mentioned that the first petitioner therein is now the Chief Minister of the State. Strangely, the petitioners have made neither any reference nor accounted for as regards nine other writ petitions, which were filed in this Court in 1999. In most of the said petitions, allegations were made about the inaction on the part of the Central and State Governments and the C.B.I. to take action on the representation dated 5.6.1999 said to have been submitted by the petitioner therein ie Dr. Y.S. Rajasekhara Reddy and others, all belonging to the Congress Party. The petitions were filed through common Advocates Sri L. Ravichander and Sri K.R. Prabhakar. Senior Advocate Sri S. Ramachandra Rao appeared in all the petitions for the petitioners. The present writ petition has also been filed by the petitioners through the same set of Advocates ie Sri K.R. Prabhakar, Advocate, who had filed the earlier petitions, and in this Writ Petition also, the same learned Senior Advocate, Sri S. Ramachandra Rao represented the petitioners.

We will now take note of the nature of the earlier petitions filed by Sri Y.S. Rajasekhara Reddy and others. W.P.No.17627 of 1999 was filed seeking directions to the Union of India, represented by its Cabinet Secretary, to exercise its constitutional powers under Article 360 of the Constitution of India and direct the Union of India to declare a proclamation that a financial emergency has arisen in the State of Andhra Pradesh and to take appropriate action in exercise of the said powers.

W.P.(SR).No.74241 of 1999 was filed seeking a writ of mandamus directing the Union of India to discharge its constitutional duties under Article 355 of the Constitution of India alleging that there is constitutional failure in the State of Andhra Pradesh and for a further direction to take appropriate steps to discharge its constitutional duty for preventing police custodial killings and to take steps to provide remedial reliefs to prevent the colossal loss of life due to diseases like

Gastro-enteritis, Jaundice, Malaria and other contagious diseases in backward areas of State including agency areas and thereby restore the A.P. Government's functioning in accordance with the Constitution.

W.P.No.20077 of 1999 was filed for directions to the Union of India and the Central Bureau of Investigation to forthwith investigate into the charges levelled against the Chief Minister of Andhra Pradesh with particular reference to his involvement into the circumstances leading to the transfer of properties covered by prevention of detention proceedings of the Assistant Director, directorate of Revenue Intelligence vide orders dated 20.5.1995.

W.P.No.20124 of 199 was filed for a direction to the Union of India and the CBI to forthwith investigate into the details of the properties held by the Chief Minister of Andhra Pradesh and members of his family alleging that the assets held by him were disproportionate to his known sources of income and to take necessary action based upon the said investigation.

W.P.No.20125 of 1999 was filed for a direction to the Union of India and CBI to forthwith investigate into the charges levelled against the Chief Minister of the State of Andhra Pradesh as detailed in the representation dated 5.6.1999 made by the petitioners and to take consequential action based on the same and submit its report.

W.P.No.20126 of 1999 was filed for a direction to the Union of India and CBI to forthwith investigate into the charges levelled against the Chief Minister of Andhra Pradesh as mentioned in the representation dated 5.6.1999 made by the petitioners and to take consequential action based on the same and submit its report.

W.P.No.20127 of 1999 was filed for a direction to the Union of India to initiate constitutional steps, including seeking a report from the Governor of Andhra Pradesh for proclamation of President's Rule in the State as there was a breakdown of constitutional machinery in the State.

W.P.No.20128 of 199 was filed seeking a direction to the Union of India and CBI to forthwith investigate into the charges levelled against the Chief Minister of the State of Andhra Pradesh, Sri Nara Chandrababu Naidu as mentioned in the representation dated 5.6.1999 made by the petitioners and to take consequential action based on the same and submit its report.

W.P.No.20129 of 1999 was filed for a direction to the State Government declaring the action of the respondents in utilising Pennar Waters to supply to Tamil Nadu as highly illegal land unconstitutional and amounts to depriving the residents of the State, more particularly the ryots of Rayalaseem and for issuance of consequential direction to the respondents to ensure that only Krishna water be supplied to Tamil Nadu under Telugu Ganga Project as earlier planned and sanctioned.

From the above, it is seen that, in substance, almost all allegations of corrupt activities alleged against respondent No.2 in the present writ petition, were the subject matter of the earlier writ petitions. The earlier writ petitions were filed alleging that despite the allegations having been brought to the notice of the concerned authorities i.e. State and Central Governments and the CBI and representation having been submitted to the Governor of the State on 5.6.1999, no action had been taken, therefore, it had necessitated them to approach the Court for directions. After vigorously prosecuting those writ petitions for some time, the petitions were got dismissed as withdrawn on 12.12.2000. Review petitions filed against the said order of dismissal were also dismissed. The earlier petitions were filed in the month of July, 1999 i.e. immediately preceding the last elections conducted for the State Assembly. By the time the petitions came up for consideration by the Court, elections had taken place and the results were declared. Respondent No.2 was elected and his party came in power and he continued as Chief Minister. At the instance of the petitioners therein the said writ petitions were got dismissed as withdrawn. Now after it was known that fresh elections in the State are likely to be held in a couple of months, another attempt was made by the petitioners herein firstly before the Supreme Court by filing W.P.(Crl.)Nos.272 and 273 of 2003 raising almost the same issues. The petitions before Supreme Court were got dismissed as withdrawn on 8.1.2004 as the petitioners have expressed their desire to move the High Court. Thereafter the present petition was filed in this Court on 20.1.2004.

The foundation laid by the petitioners for filing the present writ petition is nothing but the same representation dated 5.6.1999, which, they allege was submitted by the then Leader of the Opposition in the Assembly to various authorities including the Governor of Andhra Pradesh, Central Government and C.B.I. for taking appropriate action. There is no other independent representation

submitted by the petitioners or by anybody else, which can be said to be the foundation for filing the present petition. The petitioners in para 64 of the affidavit have alleged that the Governor of Andhra Pradesh, even though a representation was given to him by the then Leader of the Opposition in the Assembly and several others on 5.6.1999, has neither accepted nor rejected the same and thus the serious charges of corruption levelled against 2nd respondent have remained uninvestigated requiring investigation by the Court. In para 30-D the petitioners have alleged that since more than four years had elapsed when the fact of disproportionate assets of 2nd respondent was brought to the notice of the Governor, no action had been taken by him, therefore, guilt of respondent No.2 has remained uncorrected requiring interference by the Court. In para 48, the petitioners have alleged that whatever allegations the petitioners have made in the instant petition against 2nd respondent are substantiated by annexures, documents, photographs and various letters of the then Leader of Opposition submitted in the year 1999, filed as annexures to the writ petition. The petitioners have in fact filed a copy of representation-dated 5.6.1999 submitted by the then Leader of the Opposition to the Governor of the State and others along with annexures dated 14.2.1999, 21.4.1999, 8.5.1999, 12.5.1999, 24.5.1999 and 27.8.1999. After alleging these facts, the petitioners allege that one of the Writ petitions (SR.No.74206 of 1999) was dismissed on 2.11.1999 in limini on technical ground that the Governor cannot be made a party in the writ petition, against which SLP was filed, leave was granted by the Supreme Court and the same is pending before the Supreme Court.

The Petitioners have further submitted that subsequently on 12.2.2000, the other writ petitions filed in the High Court were withdrawn by the petitioners therein. The petitioners have nowhere alleged that after the earlier petitions were dismissed as withdrawn, they ever submitted any representation of their own or anybody else represented to the authorities about the conduct of respondent No.2, before filing the present writ petition. They alleged that only through representation dated 5.6.1999, a request was made by the leader of Opposition to the concerned authorities for taking action on the allegations made in the writ petition, which was the subject matter of the earlier writ petitions, which were got dismissed as withdrawn. We have already noticed that one of the writ petitions was dismissed on technical ground against which SLP was filed. Leave was granted and the appeal was pending. In addition to the petition aforementioned, the petitioners made allegations against the 2nd

respondent as regards appropriation of Government land in his own favour as life long Managing Trustee of NTR Trust which was subject matter of W.P.No.13303 of 1997 which was dismissed on 12.9.1998 against which SLP was filed and the same was also dismissed.

In the aforementioned background, one important question we posed to learned counsel for the petitioners. It was not satisfactorily answered by the learned counsel for the petitioners that what prompted the petitioners in approaching the Court after complete silence of almost four and half years after the earlier writ petitions were dismissed and why the petitioners, in case they were so concerned, did not approach the concerned authorities earlier. Why the present petitioners had chosen a time immediately prior to the date when fresh elections were to be held in the State. Nowhere they allege that they ever made a representation to any authority for taking action against the 2nd respondent after the earlier petitions were dismissed. As we have already noticed above, the earlier petitions and the instant writ petition are filed by the persons belonging to the same political party, which was in opposition then at the relevant time and is in power now. The petitioners made mention of the representation dated 5.6.1999 and furnished details of only one of the petitions filed earlier, but did not furnish details of the other writ petitions, which were filed pursuant to submission of the representation dated 5.6.1999. A passing remark is made in this petition that writ petitions were filed which were got dismissed as withdrawn. We presume that deliberately the details of the earlier petitions were not furnished. On furnishing of the details, there was no possibility of entertaining by the Court this petition on the ground that on similar allegations petitions filed earlier were dismissed. The petitioners are not the representationists, which can provide them any cause of action to file the instant writ petition on the basis of the allegations made in the representation-dated 5.6.1999. How could the petitioners file this petition on the basis of the said representation without making reference to the writ petition, which the represenationists had filed earlier, the relief prayed therein and the result of the said petitions? The petitioners cannot feign ignorance and say that they were not aware of the details or the result of the earlier writ petitions, more particularly, when they have filed documents forming part of the earlier writ petitions. It is also interesting to note that the very counsel who filed the earlier petitions has filed the present writ petition. Similarly, the same Senior Advocate who appeared in the earlier petitions has represented the petitioners in the instant petition. It cannot

be said that they also were not aware of the earlier petitions and the result thereof. When according to the petitioners, one of the earlier writ petitions was dismissed on the ground that the Governor cannot be sued, why fresh petitions were filed by some other person when the said question is yet is to be decided by the Supreme Court.

The very conduct of filing fresh petition almost on the same allegations maintaining silence for almost four and half years and suddenly coming into action in the wake of General Elections, cannot be said to be a bona fide act in public interest and, in that view of the matter, there is no reason why in this petition we should even proceed further and even issue notice to the respondents. Allegations made in the present petition of some alleged transactions taken place subsequent to filing of the earlier petitions are about the sale deeds alleged to have been executed and registered in favour of the family members of 2nd respondent, which is not the subject matter of any representation filed by the petitioners. There is no reason why on the allegations made by the petitioners in the instant petition, without they having first approached the concerned authorities, we should entertain the writ petition for issuing any directions against the respondents. It is for the petitioners to seek redressal first approaching the authorities concerned.

For the reasons aforementioned, we are not inclined to admit the Writ Petition and even call upon the respondents to file any reply and will proceed to dismiss the petition as not bona fide. Petition is accordingly dismissed. Consequently, W.P.M.P.Nos.1419, 1420, 1421, 1422 and 9899 of 2004 of 2004 stand dismissed.

_____ July, 2004

DEVINDER GUPTA, CJ

_____

Ms. G. ROHINI, J

LR Copy to be marked:

Vtv

One fair copy to the Honourable the Chief Justice Sri Devinder Gupta (For his Lordship's kind perusal)

One fair copy to the Honourable Ms. Jusdtice G. Rohini

(For her Lordship's kind perusal)

To

1.The Director, Central Bureau of Investigation, represented

by its Director, Lodhi Road, New Delhi.

2. Hon'ble Shri Nara Chandra Babu Naidu,

S/o (Late) Shri Kharjura Naidu, Chief Minister

Of Andhra Pradesh, R/o Plot No.1310,

Road No.65, Jubilee Hills, HYDERABAD-33.

3. Government of India, represented by its Cabinet Secretary, New Delhi.

4. The Secretary, Andhra Pradesh Legislative Assembly, Hyderabad.

5. The Commissioner for Income tax, Andhra Pradesh, Hyderabad.

6. Central Vigilance Commission of India, represented by its Secretary, New Delhi.

7. 8 L.R. copies.

8. Two CCs to the Advocate General, High Court of A.P., Hyderabad.

9. One CC to Mr. K.R. Prabhakar, Advocate.

10. One CC to The Govtr. Pleader for Law and Legislative Affairs.

11. One CC to Sri C. Sadasiva Reddy, Standing Counsel for CBI.

12. One CC to Mr. J.V. Prasad, Standing Counsel for Income Tax.

13. One CC to Mr. Standing Counsel for Central Government.

14. The Under Secretary, Union of India, Ministry of Law Justice and Company Affairs, New Delhi.

15. The Secretary, A.P. Advocates Association Library, High Court Buildings, Hyderabad.

16. Two C.D. Copies.